



**cogta**

Department:  
Cooperative Governance and  
Traditional Affairs  
North West Provincial Government  
REPUBLIC OF SOUTH AFRICA



## OFFICE OF THE HOD

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The Office of the State Attorney – Mafikeng  
Mega City Complex

**Your ref: New Matter**

Dear Sir

**SUBJECT : KGAFELA KGAFELA II // THE PREMIER OF NORTH WEST & 4 OTHERS.  
CASE NO.2630/2024**

1. The Department received a court application from Kgafela Kgafela II seeking compelling orders against the Premier as the 1<sup>st</sup> Respondent.
2. The Premier is cited as the 1<sup>st</sup> Respondent, MEC COGHSTA as the 2<sup>nd</sup> Respondent, HOD COGTA as the 3<sup>rd</sup> Respondent, Chief Director Traditional Affairs as the 4<sup>th</sup> Respondent and Mr Tjie as the 5<sup>th</sup> Respondent.
3. Kgosi Kgolo Kgafela II in his founding affidavit makes damning allegations that the Respondents failed to perform their Constitutional and Statutory obligations. Emphasis is made on Section 22 of the TKLA which provides for mandatory intervention by the Premier in instances where the traditional council fails to exercise their powers and functions as required by Section 20 of the Act.
4. The Premier took steps to implement the recommendations of Baloyi Commission Report and amongst them was to designate a person by way of an Administrator. For the period between

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the year 2020 and April 2024, Mr Tjie was appointed an Administrator to administer the affairs of Bakgatla Ba Kgafela Traditional Community.

5. Section 22(3) of the TKLA calls for an investigation by the Premier in instances where the traditional council does not or cannot fulfill its statutory obligations. It is only after receipt of the investigation report that the Premier may intervene by appointing a person to assume the responsibilities of the traditional council. The issue of a further intervention in terms of Section 22 of the TKLA has not been determined by the Premier.
6. It is therefore not correct that the Premier and the Department failed in discharging their obligations in terms of Section 22.
7. Your office is instructed to oppose the application on behalf of the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents. That an Advocate be briefed to represent the Respondents in court.

Any other enquiries should be directed to **Ms L.L Mathe** at **018- 3884828, 0663040036**  
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Kind Regards



**Dr MS Bole**

**Head of Department (COGTA)**

*02/07/2024*

**Date**